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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/811,199	03/16/2001	Mohsen S. Marzouk	FIB 0094 PA	6667

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EXAMINER

MICHL, PAUL R

ART UNIT PAPER NUMBER

1714

DATE MAILED: 05/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

Examiner

Group/Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 4/18/02
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1, 3, 5, 7, 8, 10-13, 15 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1, 3, 5, 7, 8, 10-13, 15 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit 1714

Claims 1, 3, 5, 7, 8, 10-13 and 15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Parish.

Claims 1, 3, 5, 7, 8, 10-13 and 15 are rejected under 35 U.S.C. § 102(e) as being anticipated by Patel.

Claims 1, 3, 5, 7, 8, 10-13 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Parish or Patel. Applicants' claims are directed to a composition comprising ester, methylethylketone peroxide, and either ethyl acetate, methyl acetate or butyl acetate and compositions directed to methylethylketone peroxide and solvent. It remains the Examiner's position that applicants' claims lack novelty over Parish or Patel and that applicants' claims would be obvious to one of ordinary skill in the art over Parish or Patel. Applicants' arguments have been considered but are not persuasive. Parish requires a composition comprising ester, solvent, and peroxide. Parish specifically recites ethyl acetate solvent and methylethylketone peroxide in the claims. Ethyl acetate is disclosed in column 8, line 67. Methylethylketone peroxide is disclosed in column 8, line 45. Within the meaning of § 102, Parish teaches a composition of ester, ethyl acetate, and methylethylketone peroxide. From the Parish disclosure a composition of ester, ethyl acetate, and methylethylketone peroxide would be obvious. Ethyl acetate is also recited in claim 10 which depends upon claim 1. Methylethylketone peroxide

Art Unit 1714

is recited in claim 12 which depends upon claim 1. It is inescapable that Parish teaches a composition of ester, ethyl acetate, and methylethylketone peroxide. Applicants' argument concerning Patel has been considered but is not persuasive. Applicants argue that there is no mention in Patel of methylethylketone peroxide. This argument is not persuasive because Patel specifically recites methylethylketone peroxide in lines 1 and 2 of column 13. Patel discloses a number of esters such as in claims 2, 5, 6, 9 and 10. Patel specifically recites butyl acetate and ethyl acetate in column 13, lines 36-38. Within the meaning of § 103, Patel teaches compositions of ester, ethyl acetate or butyl acetate, and methylethylketone peroxide. Within the meaning of § 103, compositions comprising ester, methylethylketone peroxide, and ethyl acetate or butyl acetate would clearly be obvious in Patel. Applicants' argument concerning a stabilized methylethylketone peroxide catalyst composition is not persuasive. Claim 12 is directed to a composition of the peroxide and a solvent. Both references disclose peroxide and solvent. There is no patentable significance in forming such a composition prior to addition to the ester in Patel or Parish. This is a prima facie case of obviousness. Applicants have not submitted any evidence in affidavit or declaration form showing any significance or any unexpectedly superior result achieved by adding peroxide to

Art Unit 1714

solvent prior to addition to the ester in Patel or Parish. Claim 8 is a method claim of mixing, stabilizing, and adding. It is the Examiner's position that the method step of stabilizing is not a material recitation. Nothing occurs as a separate method step which would meet the step of stabilizing. Claim 8 is essentially directed to a method of making a composition of peroxide and solvent and then adding said composition to a primer composition. No patentable significance is seen in such a method.

Claims 12 and 15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Leveskis.

Claims 12 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Leveskis. Claims 12 and 15 are directed to "solvent" generically. These claims are not limited to any particular solvent. Leveskis discloses compositions comprising methylethylketone peroxide and solvents. Leveskis discloses a large number of solvents in columns 3 and 4. It remains the Examiner's position that applicants' claims lack novelty over Leveskis and that applicants' claims would be obvious from Leveskis. Applicants' arguments have been considered but are not persuasive. Claim 12 recites 15% peroxide. Compositions according to Leveskis comprising 15% peroxide would be prima facie obvious. Applicants have not submitted any evidence in affidavit or declaration form showing unexpected results for

Art Unit 1714

compositions produced according to Leveskis comprising 15% methylethylketone peroxide.

THIS ACTION IS MADE FINAL. Applicants are reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Michl whose telephone number is (703) 308-2451. The examiner can normally be reached on Monday through Friday from 7:30 A.M. to 4 P.M.

Serial No. 09/811,199

-6-

Art Unit 1714

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The fax phone number for this Group is (703) 305-5433.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

PRMichl:cdc

April 29, 2002


PAUL R. MICHL
PATENT EXAMINER
ART UNIT 156